

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

UNITED STATES OF AMERICA,

Plaintiff,

V.

KELVIN ELLIS,

Defendant.

CRIMINAL NO. 05-30010-WDS

ORDER

STIEHL, District Judge:

Before the Court is defendant's second motion to continue the trial, currently set for May 31, 2005. Defendant seeks a continuance on the grounds that this case is complex, involving various tax charges, and that he is currently scheduled for trial on May 31, 2005, before Chief Judge Murphy in *United States v. Powell*, 05-30044-GPM, in which he is named as a defendant. Although he is not involved in the Powell trial, defense counsel asserts that after the conclusion of the *Powell* case, he will need an additional period of time to adequately prepare with defendant for trial in this matter. The Court notes that the defendant has previously waived his right to a speedy trial. The Court finds that the waiver was made knowingly and voluntarily.

Upon review of the record, the Court finds that the defendant's counsel has exercised due diligence in preparing for trial. The Court further finds due to the conflict with *United States v. Powell*, a case with several defendants, and the complex nature of the charges in this indictment, it is appropriate, reasonable and necessary to continue the matter from this Court's May 31, 2005 trial docket to allow defendant to face the charges in *United States v. Powell*, and to allow defense counsel additional time to prepare for this trial once the *Powell* matter is concluded. The Court **FINDS** that failure to grant a continuance in this matter would deny counsel for defendant reasonable time necessary to prepare for trial and that the end of justice would be best served by granting the continuance. 18 U.S.C. § 3161(h)(8)(B)(i) & (B)(ii); § 3161(h)(1)(D).

Accordingly, the Court **GRANTS** defendant's motion for a continuance. This matter is **HEREBY** continued for trial until Tuesday, September 6, 2005, at 9:00 A.M. The final pre-trial in this matter is scheduled for August 22, 2005, at 1:30 P.M. All time between the filing of this motion and the new trial date shall be excluded for purposes of speedy trial calculations under § 3161.

IT IS SO ORDERED.

DATED: May 6, 2005.

s/ WILLIAM D. STIEHL
DISTRICT JUDGE